

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

RENEE JONES,)
)
Plaintiff,)
) CIVIL ACTION FILE
vs.) NO. 3:17-CV-00013-CDL
)
SGT. ZACH BARRETT, in his)
Individual Capacity, CPL.)
THOMPSON, in his Individual)
Capacity, DEPUTY JACOB)
PALMER, in his Individual)
Capacity, DEPUTY MATT HILL,)
In his Individual Capacity,)
)
Defendants.)
)

ANSWER AND DEFENSES OF SGT. ZACH BARRETT, CPL.
THOMPSON, DEPUTY JACOB PALMER AND DEPUTY MATT HILL TO
PLAINTIFF'S COMPLAINT FOR DAMAGES

COME NOW SGT. ZACH BARRETT, CPL. THOMPSON, DEPUTY JACOB PALMER and DEPUTY MATT HILL, Defendants in this action, and file this their Answer to Plaintiff's Complaint as follows:

FIRST DEFENSE

Plaintiff's Complaint, and each and every paragraph set forth therein, fails to state or set forth claims against Defendants upon which relief may be granted.

SECOND DEFENSE

For their second defense, Defendants answer and respond to the numbered sections and paragraphs of Plaintiff's Complaint as follows:

Parties

1.

Defendants can neither admit nor deny the allegations set forth in paragraph 1 of Plaintiff's Complaint for lack of sufficient information upon which to form a belief as to the truth thereof, and hereby put Plaintiff upon strict proof of same.

2.

Defendants admit the allegations set forth in paragraph 2 of the Complaint.

3.

Defendants admit the allegations set forth in paragraph 3 of the Complaint.

4.

Defendants admit the allegations set forth in paragraph 4 of the Complaint.

5.

Defendants admit the allegations set forth in paragraph 5 of the Complaint, with the exception noted that Thompson is now a Sergeant.

Jurisdiction and Venue

6.

Defendants admit the allegations set forth in paragraph 6 of the Complaint.

7.

Defendants admit the allegations set forth in paragraph 7 of the Complaint.

8.

Defendants admit the allegations set forth in paragraph 8 of the Complaint.

9.

Defendants admit the allegations set forth in paragraph 9 of the Complaint.

Facts Giving Rise to Plaintiff's Claims

10.

Defendants deny the allegations set forth in paragraph 10 of the Complaint in the form and manner alleged.

11.

In response to the allegations set forth in paragraph 11 of the Complaint, Defendants state that Sheriff Chapman related information received from reliable sources that Plaintiff was purchasing and/or using illegal drugs, and therefore Defendants deny the allegations in the form and manner alleged.

12.

Defendants deny the allegations set forth in paragraph 12 of the Complaint in the form and manner alleged.

13.

Defendants deny the allegations set forth in paragraph 13 of the Complaint.

14.

In response to paragraph 14 of the Complaint, Defendants deny the allegations set forth in the first sentence in the form and manner alleged, and admit the allegations set forth in the second sentence; Defendants can neither admit nor deny the allegations set forth in the third sentence for lack of sufficient information to form a belief as to the truth thereof, and hereby put Plaintiff upon strict proof of same.

15.

Defendants deny the allegations set forth in paragraph 15 of the Complaint in the form and manner alleged.

16.

Defendants deny the allegations set forth in paragraph 16 of the Complaint in the form and manner alleged.

17.

Defendants deny the allegations set forth in paragraph 17 of the Complaint in the form and manner alleged.

18.

In response to the allegations set forth in paragraph 18 of the Complaint, Defendants admit that during the investigation Mr. Jones was provided with a body microphone which recorded and allowed the officers to hear audio between Mr. Jones and Plaintiff; Defendants deny the remaining allegations in the form and manner alleged.

19.

Defendants deny the allegations set forth in paragraph 19 of the Complaint.

20.

Defendants deny the allegations set forth in paragraph 20 of the Complaint.

21.

Defendants deny the allegations set forth in paragraph 21 of the Complaint.

22.

Defendants admit the allegations set forth in paragraph 22 of the Complaint.

23.

Defendants deny the allegations set forth in paragraph 23 of the Complaint.

24.

Defendants admit the allegations set forth in paragraph 24 of the Complaint.

25.

Defendants deny the allegations set forth in paragraph 25 of the Complaint.

26.

Defendants admit the allegations set forth in paragraph 26 of the Complaint.

27.

Defendants deny the allegations set forth in paragraph 27 of the Complaint in the form and manner alleged.

28.

In response to paragraph 28, Defendants admit the allegations set forth in the first sentence, can neither admit nor deny the allegations in paragraph 28(a) and (b) for lack of sufficient information upon which to form a belief as to the truth thereof, and hereby put Plaintiff upon strict proof of same, and deny the allegations set forth in paragraph 28(c).

29.

Defendants admit the allegations set forth in paragraph 29 of the Complaint.

30.

Defendants admit the allegations set forth in paragraph 30 of the Complaint.

31.

Defendants admit the allegations set forth in paragraph 31 of the Complaint.

32.

Defendants admit the allegations set forth in paragraph 32 of the Complaint.

33.

Defendants deny the allegations set forth in paragraph 33 of the Complaint.

34.

Defendants deny the allegations set forth in paragraph 34 of the Complaint.

35.

Defendants deny the allegations set forth in paragraph 35 of the Complaint.

36.

Defendants deny the allegations set forth in paragraph 36 of the Complaint.

37.

Defendants deny the allegations set forth in paragraph 37 of the Complaint.

38.

Defendants deny the allegations set forth in paragraph 38 of the Complaint.

39.

Defendants deny the allegations set forth in paragraph 39 of the Complaint in the form and manner alleged.

40.

Defendants deny the allegations set forth in paragraph 40 of the Complaint in the form and manner alleged.

41.

Defendants deny the allegations set forth in paragraph 41 of the Complaint in the form and manner alleged.

42.

Defendants deny the allegations set forth in paragraph 42 of the Complaint in the form and manner alleged.

43.

Defendants deny the allegations set forth in paragraph 43 of the Complaint.

44.

Defendants deny the allegations set forth in paragraph 44 of the Complaint in the form and manner alleged.

45.

Defendants admit the allegations set forth in paragraph 45 of the Complaint.

46.

Defendants admit the allegations set forth in paragraph 46 of the Complaint.

47.

Defendants admit the allegations set forth in paragraph 47 of the Complaint.

48.

Defendants deny the allegations set forth in paragraph 48 of the Complaint in the form and manner alleged.

49.

Defendants deny the allegations set forth in paragraph 49 of the Complaint in the form and manner alleged.

50.

Defendants deny the allegations set forth in paragraph 50 of the Complaint in the form and manner alleged.

51.

Defendants deny the allegations set forth in paragraph 51 of the Complaint in the form and manner alleged.

52.

Defendants admit the allegations set forth in paragraph 52 of the Complaint.

53.

Defendants admit the allegations set forth in paragraph 53 of the Complaint.

54.

Defendants deny the allegations set forth in paragraph 54 of the Complaint in the form and manner alleged.

55.

Defendants admit the allegations set forth in paragraph 55 of the Complaint.

56.

Defendants deny the allegations set forth in paragraph 56 of the Complaint.

Count I – Illegal Seizure under 42 U.S.C. § 1983

57.

In response to paragraph 57 of the Complaint, Defendants admit that Plaintiff purports to set forth the count alleged, but deny that they violated Plaintiff's Fourth Amendment rights and deny that they are liable to Plaintiff in any manner.

58.

Defendants deny the allegations set forth in paragraph 58 of the Complaint.

59.

Defendants deny the allegations set forth in paragraph 59 of the Complaint.

60.

Defendants deny the allegations set forth in paragraph 60 of the Complaint.

61.

Defendants deny the allegations set forth in paragraph 61 of the Complaint.

62.

Defendants deny the allegations set forth in paragraph 62 of the Complaint in the form and manner alleged.

Count II – False Arrest under 42 U.S.C. § 1983

63.

In response to paragraph 63 of the Complaint, Defendants admit that Plaintiff purports to set forth the count alleged, but deny that they violated Plaintiff's Fourth Amendment rights and deny that they are liable to Plaintiff in any manner.

64.

Defendants deny the allegations set forth in paragraph 64 of the Complaint.

65.

Defendants deny the allegations set forth in paragraph 65 of the Complaint in the form and manner alleged.

66.

Defendants admit the allegations set forth in paragraph 66 of the Complaint.

67.

Defendants deny the allegations set forth in paragraph 67 of the Complaint.

68.

Defendants deny the allegations set forth in paragraph 68 of the Complaint.

69.

Defendants deny the allegations set forth in paragraph 69 of the Complaint in the form and manner alleged.

70.

Defendants admit the allegations set forth in paragraph 70 of the Complaint.

Count III – Denial of Due Process under 42 U.S.C. § 1983

71.

In response to paragraph 71 of the Complaint, Defendants admit that Plaintiff purports to set forth the count alleged, but deny that they violated Plaintiff's Fourteenth Amendment rights and deny that they are liable to Plaintiff in any manner.

72.

Defendants deny the allegations set forth in paragraph 72 of the Complaint.

73.

Defendants deny the allegations set forth in paragraph 73 of the Complaint.

74.

Defendants deny the allegations set forth in paragraph 74 of the Complaint.

75.

Defendants deny the allegations set forth in paragraph 75 of the Complaint in the form and manner alleged.

76.

Defendants deny the allegations set forth in paragraph 76 of the Complaint in the form and manner alleged.

77.

Defendants deny the allegations set forth in paragraph 77 of the Complaint in the form and manner alleged.

78.

Defendants deny the allegations set forth in paragraph 78 of the Complaint.

79.

Defendants deny the allegations set forth in paragraph 79 of the Complaint in the form and manner alleged.

COUNT IV – Conspiracy under 42 U.S.C. § 1983

80.

In response to paragraph 80 of the Complaint, Defendants admit that Plaintiff purports to set forth the count alleged, but deny that they violated Plaintiff's constitutional rights and deny that they are liable to Plaintiff in any manner.

81.

Defendants deny the allegations set forth in paragraph 81 of the Complaint.

82.

Defendants deny the allegations set forth in paragraph 82 of the Complaint.

83.

Defendants deny the allegations set forth in paragraph 83 of the Complaint.

84.

Defendants deny the allegations set forth in paragraph 84 of the Complaint.

85.

Defendants deny the allegations set forth in paragraph 85 of the Complaint.

86.

Defendants deny the allegations set forth in paragraph 86 of the Complaint.

87.

Defendants deny the allegations set forth in paragraph 87 of the Complaint.

COUNT V – False Imprisonment under O.C.G.A. § 51-2-70

88.

In response to paragraph 88 of the Complaint, Defendants admit that Plaintiff purports to set forth the count alleged, but Defendants deny that they violated rights and deny that they are liable to Plaintiff in any manner.

89.

Defendants deny the allegations set forth in paragraph 89 of the Complaint.

COUNT VI – Malicious Prosecution under O.C.G.A. § 51-7-40

90.

Defendants deny the allegations set forth in paragraph 90 of the Complaint.

91.

Defendants deny the allegations set forth in paragraph 91 of the Complaint.

92.

Defendants deny the allegations set forth in paragraph 92 of the Complaint.

93.

Defendants deny the allegations set forth in paragraph 93 of the Complaint.

COUNT VII – Attorney’s Fees under O.C.G.A. § 13-6-11

94.

In response to paragraph 94 of the Complaint, Defendants admit that Plaintiff purports to bring this count as alleged, but Defendants deny that they violated Plaintiff’s rights in any manner and deny that Plaintiff is entitled to a recovery.

95.

Defendants deny the allegations set forth in paragraph 95 of the Complaint.

96.

Paragraph 96 sets forth a statement of law, with no factual or legal allegations, and does not require a response.

97.

Defendants deny any and all other allegations set forth in Plaintiff's Complaint not expressly admitted herein.

THIRD DEFENSE

Defendants in their individual capacities are protected by qualified immunity as to any constitutional claims brought pursuant to 42 U.S.C. §1983 because, at all times relevant hereto, they were performing objectively reasonable, discretionary acts and did not violate a clearly established federal right of which a reasonable person would have known.

FOURTH DEFENSE

Official immunity protects Defendants from liability under any state law claims because, at all times relevant hereto, they were performing discretionary acts without actual malice or intent to injure.

FIFTH DEFENSE

Plaintiff's alleged damages, if any, were caused by persons other than these Defendants.

SIXTH DEFENSE

Defendant's actions were justified and privileged under Georgia Law.

WHEREFORE, having fully answered, Defendants pray that judgment be entered in their favor and against the Plaintiff, that Plaintiff takes nothing, and that Defendants be awarded their costs incurred in defending this action.

This 15th day of March, 2017.

WILLIAMS, MORRIS & WAYMIRE, LLC

/s/ Terry E. Williams
TERRY E. WILLIAMS
Georgia Bar No. 764330

Bldg. 400, Suite A
4330 South Lee Street
Buford, GA 30518
678-541-0790
678-541-0789
terry@wmwlaw.com

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing DEFENDANTS' ANSWER AND DEFENSES TO PLAINTIFF'S COMPLAINT FOR DAMAGES upon all parties via email through the Court's electronic filing system, as follows:

G. Brian Spears
bspears@mindspring.com

Jeffrey R. Filipovits
jeff@law.filipovits.com

This 15th day of March, 2017.

WILLIAMS, MORRIS & WAYMIRE, LLC

/s/ Terry E. Williams
TERRY E. WILLIAMS